



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Boise District Office

3948 Development Avenue

Boise, Idaho 83705

<http://www.id.blm.gov/offices/lsrcd>



In Reply Refer To: 8300

Notice Of Decision

RE: *Wilson Creek Transportation Plan Environmental Assessment # ID-130-2006-1927*

Dear Interested Members of the Public:

In July, 2006, a pre-decisional Wilson Creek Subregion Travel Management Plan was available online for public review and comment. We received a number of comments on our Proposed Action to manage access in the 28,800 acre area. We have addressed those comments and we have made changes in the Final Environmental Assessment (EA) where appropriate and justified. The final selected Proposed Action more nearly approximates Alternative 3 of the pre-decisional EA although it is now numbered as Alternative 2.

Below is a summary of the comments received by topic, and BLM's response or action taken in the Final EA/Decision to address those comments:

Treatment of RS-2477 Assertions

In the Pre-decisional EA for Wilson Creek, BLM's Proposed Action with regard to R.S. 2477 assertions was to leave all 77 miles of R.S. 2477 asserted routes open to all uses until the legal status of these assertions was resolved. Several comments expressed concern that by treating all R.S. 2477 assertions in the Subregion in this way, BLM was implying that all existing R.S. 2477 assertions were valid and that BLM had little choice but to leave the routes open. Comments also expressed the concern that the proposed treatment of R.S. 2477 assertions in the EA was not in compliance with existing Owyhee County or the BLM (Secretary of the Interior's) procedures for required validity determinations of R.S. 2477 assertions.

Response: The EA has been modified to clarify that R.S. 2477 assertions do exist and are an element of the existing situation, but that County, BLM, or other legal processes, rather than this EA will be the mechanisms through which the validity of the assertions are resolved.

Accordingly, in this Final Decision, determination of which routes will remain open, closed or limited is based on evaluation of the environmental and social impacts of the route, and on whether the route meets the stated objectives and priorities established for the Wilson Creek Subregion, not on whether the routes are R.S. 2477 assertions.

Trailheads/Staging Areas:

In the Draft, pre-decisional EA, BLM's Proposed Action retained the current, user-defined staging area in T.1S., R3W., Section 8, and added another new staging area in T. 1S., R. 3W., Section 4.

Numerous comments objected to the proposed new trailhead/staging area location and development. The existing user-created staging area was identified as the preferred site because it was better protected from the wind, and would cause less additional disturbance to soils and vegetation than would the construction of an entirely new staging area in a previously undisturbed location. Comments also suggested that rather than building the new staging area, then monitoring the existing staging area for impacts to wild horses, BLM should first conduct its three year monitoring program, and then, on the basis of that information, decide whether it was necessary to close the current facility and construct a new staging facility.

Response: The Proposed Action has been modified to eliminate the proposed new staging area. The existing staging area will be maintained and upgraded to the same level as originally proposed for the new staging area. The proposed vault toilet would be installed at the existing staging area. The Wilson Creek Wayside informational turnout would be constructed as described in the pre-decisional EA. BLM will conduct a three year monitoring program of the staging area and its effects on wild horses as described in the Proposed Action.

Beck and Caldwell Ditches

In the Draft, pre-decisional EA, BLM's Proposed Action limited use on the historic Beck and Caldwell Ditches (also known as the China Ditches) to hikers only, excluding equestrian and mountain bike use in order to protect the integrity of the historic feature. Several comments disagreed with the proposed closure of the Beck and Caldwell Ditches to mountain bike use due to potential damage to historic features. Comments pointed out that the BLM's own impact analysis showed that mountain bikes generally have impacts to trails that are roughly equivalent to or lower than those of hikers, and therefore it did not make sense to exclude bikes while allowing hikers on the two trails.

Response: BLM generally agrees with the comments received on this issue, and has amended the Final EA/Decision to allow both hikers and bikers to use portions of the Caldwell and Beck Ditches. BLM does note, however, that the generalization about the equivalence of impact by mountain bikes and hikers to trails is applicable only in specific situations, namely trail stretches that are largely flat to gently rolling. As discussed in the recreation impacts section of the EA, on steeper terrain, mountain bikers can have substantially greater impacts to trail surfaces than hikers because of their tendency to operate at higher speeds, which can lead to hard braking, skidding and increased soil displacement. The Beck and Caldwell Ditches are very gently graded, the trail surface is often rock-studded, travel speed is necessarily low, and the potential for impacts to the historic features from mountain bikes is also low. The Final Decision does limit one portion of existing trail to hikers only. The trail segment is approximately 2 miles long, along Reynolds Creek, upstream of the Beck and Caldwell Ditches. The route stays along Reynolds Creek and does not provide connection with other areas of the Subregion. The reason for excluding mountain bikers, equestrian, and motorized users from this segment is to provide hikers a unique and desirable recreational opportunity in the Subregion on a trail that has excellent birdwatching and nature viewing opportunities, and does not provide connectivity with other trails outside the Reynolds Creek drainage.

Wildlife

A comment was received that expressed concern about the adequacy of a proposed seasonal (March 1-May 31) road closure to protect sage grouse breeding, nesting and rearing habitat, and suggested that the road in question should be permanently closed, or at least restricted to hiking and equestrian use only, to conform with a current study that suggests that 5.5 km is the minimum distance from roads required to maintain active sage grouse leks.

Response: The route in question serves as access for ranchers to a developed water source, Horse Race Spring. BLM's proposed action is to allow administrative motorized access to the spring for necessary maintenance activity from June 1 through Feb. 28th of the following year, but to close the route to all use, motorized and non-motorized, during the crucial sage grouse breeding, nesting, and rearing period, March 1 – May 31, annually. The route would be open to all non-motorized uses outside that closed period, but would not be open to non-administrative motorized use at any time. The mitigation proposed in this Plan follows the human disturbance conservation measures adopted in the July, 2006 Idaho Sage-grouse Conservation Plan. The conservation measures regarding sage grouse protection and OHV disturbance area as follows:

- “1. Limit OHV use to existing designated roads and trails to eliminate or minimize disturbance to sage-grouse and reduce the risk of wildfire and other habitat disturbances to sage-grouse and other habitat disturbances associated with cross-country travel. Consider a “closed unless posted open” approach where appropriate.
2. Discourage the creation of new roads and trails in sage-grouse breeding or winter habitat. Re-route existing trails and routes in a manner that minimizes disturbance.
3. Where existing roads or OHV trails are near occupied leks, apply use-restrictions where needed and appropriate, to minimize nonessential activity between 6:00 PM to 9:00AM. In general this guideline should be applied from approximately March 15 Through May 1 in lower elevation habitat and March 25 Through May 15 in higher elevation habitats, where OHV or vehicular disturbance is a problem.
4. Work collaboratively with OHV user groups to increase awareness of the potential adverse impacts of OHVs on sage-grouse and other wildlife and to develop solutions to reduce conflict.”

Adequacy of Route Inventory

We received a number of comments about the completeness and accuracy of our route inventory. Comments noted that a number of established routes used by mountain bikers and equestrians, particularly in the area between the Stewart Gulch and Wilson Creek drainages were omitted, and that though BLM was previously given information about these routes, it did not choose to use that information. Some comments suggested that if a route had historic use, according to BLM's own Owyhee RMP, the agency could not close that route unless it had established a “Limits of Acceptable Change” (LAC) monitoring program, based on accurate and complete baseline data.

We had an almost complete turnover of recreation staff in the Owyhee Field Office in 2005, and some information collected by former BLM employees from the public, including route information, has apparently been misplaced. However, BLM believes that its inventory effort was a good and conscientious one, and that most routes that were clearly established before 2003 were identified and added to the comprehensive route inventory. After circulating our route inventory maps to several recreational groups in the late winter of 2006, we sent an experienced GPS mapping technician into the field to find some of the routes that were reported to us as well-established, and he was unable to relocate them. We do have adaptive management provisions in the EA that would allow for closure of routes, opening of new routes, or changes in management of routes as new information is received, and would consider adding the routes in question, providing they meet the standards as outlined in Appendix 5 of the Final Plan.

With respect to suggestions that the Owyhee RMP declares that we cannot close “historic” routes before establishing a baseline and conducting a LAC monitoring program, we strongly disagree. The standards established in this EA for route designation (See Appendix 5) are in conformance with direction established in the Owyhee RMP, not just for recreation, but for other resources including wild horses, and wildlife. Among the standards adopted in this EA is reduction in routes in areas important to sage-grouse and other sage dependent or sage-using wildlife, and reduction of routes in areas important to wild horses. The routes mentioned in some comments were in higher elevation areas of the Subregion where sagebrush stands are relatively continuous. Our Proposed Action generally emphasizes using routes in lower elevation areas, and de-emphasizing routes in higher elevation areas, where possible. The goals of transportation planning are not merely to provide recreation opportunity. Goals also include protection of vulnerable resources from the impacts of recreation, including those impacts that are currently occurring, and those likely to occur as recreation use increases with rapid regional population growth.

Adequacy of Proposed Monitoring

Comments noted that “...there is a notable absence of any monitoring for wildlife or impacts of the proposed plan on wildlife with the exception of wild horses.”

Response: The Monitoring section of the Plan has been modified to show other, ongoing monitoring efforts that would be integrated into the management of Wilson Creek Subregion.

Adequacy of Public Outreach

Comments noted that repeated efforts to get information about this Plan from BLM were difficult and that BLM’s outreach efforts to involve interested groups (particularly mountain bikers and 4X4 enthusiasts) and individuals in this transportation plan were insufficient.

Comments expressed frustration that consideration of 4x4 vehicle uses and demands was completely excluded from discussion in the document, and that the opinions and concerns of 4x4 users and some long time mountain bike users of the Wilson Creek area were not solicited.

Response: We regret overlooking some 4x4 users and mountain biking groups and individuals. Though we have not involved them in our transportation planning efforts to date, we will make

sure to add all groups and individuals who commented on this Plan to our mailing/notification list, and we will be sure to keep these people and groups fully involved as we move through the transportation planning process in the Murphy Subregion, and elsewhere in the Boise District.

Inadequate Range of Alternatives

BLM received a large number of comments from 4x4 users that the Wilson Creek Subregion Transportation Plan favored non-motorized use, was heavily biased against motorized use, and that the agency essentially espoused a position that “closed trails are good, open trails are bad”. Comments requested that the EA include alternatives with emphasis on motorized use.

Comments also expressed anger at the loss of motorized recreation opportunity proposed in the Plan and suggested that BLM’s discussion of motorized use in the EA overlooked important distinctions between various categories of motorized use, and instead lumped all motorized use into one category.

Response: The pre-decisional EA’s alternatives included leaving all 139 miles of motorized routes open, leaving 80 miles open and leaving 56 miles open. Short of the extreme of closing all motorized routes, this represents a range of alternatives with significant differences. The Final EA has a similar range of alternatives.

The 28,841 acre Wilson Creek Subregion is the smallest part of the 261,487 acre Owyhee Front Special Recreation Management Area (SRMA). Across the Owyhee Front, in its remaining three Subregions (Shares Basin, Murphy, and Jump Creek) motorized recreation use predominates. Only in Wilson Creek is there a significant, user-established, non-motorized trail network. BLM’s *Land Use Planning Handbook* advises that,

“Comprehensive travel management planning should address all resource use aspects (such as recreational, traditional, casual, agricultural, commercial, and educational) and accompanying modes and conditions of travel of public lands, not just motorized or off-highway vehicle activities”.

BLM has long recognized the popularity of and rising demand for motorized recreation use on public land. Over the years, The Boise District BLM has invested significant labor and funding to provide motorized recreational users with trailhead facilities, groomed trails and roads, OHV cattleguards, and marked routes on large portions of the Owyhee Front using both BLM appropriated funds, and funds received in grants from the Idaho Department of Parks and Recreation.

Prior to this Plan, Boise BLM had provided little recognition of, or facilities for, non-motorized recreation trail use, despite the rising popularity of these activities in the region. The Wilson Creek Transportation Plan obviously emphasizes non-motorized recreational trail opportunities, and it does reduce the available mileage available for recreational motorized use, but the Plan is only the first of four route designation efforts that will be undertaken on the Owyhee Front in the next few years. In other Subregions of the Front, management decisions will likely provide for a wide range of motorized recreational use while protecting soils, vegetation, wildlife and cultural

resources. BLM's mandate to manage for multiple use does not require the agency to provide for all uses on every acre of public land. We seek to provide for a range of activities and resources on public land, but not all uses are necessarily compatible. Sometimes BLM can avoid social conflicts and resource impacts, and provide better recreation experience, by establishing different zones that emphasize specific activities.

BLM has already begun the initial preparation of the Transportation Plan for the Murphy Subregion of the Owyhee Front, and we expect to issue the Draft Plan in early 2007. The Murphy Subregion contains more than 1600 miles of roads and trails, and about 10 times the land area of the Wilson Creek Subregion. Motorized recreational use in this area is already well-established and recreation management emphasis there will clearly focus on motorized recreation.

Administrative Road Designations

A comment was received that Administrative Road designations where use is limited to permitted users is highly controversial and provides for "elite rancher use".

Response: OHV designations implementing Executive Orders and BLM regulations include decisions for areas that are open to OHV use, closed to OHV use or limited OHV use areas. The limited area designation has been broadly interpreted and applied. Limited areas can have seasonal, type of use, amount of use, type of user, purpose of use, etc. conditions attached. There is nothing in any Executive Order or regulation that prohibits designating roads as limited by user type if that type of limitation is justified by resource and administrative management conditions.

Any decision restricting OHV use is controversial. It is uncertain how many BLM land use plans include Administrative Road designations or when this designation was first used. However, it is known that the Secretary of the Interior approved the use of the same type of Administrative Road designations in the Management Plan for the Grand Staircase-Escalante National Monument (1999).

The wording in the EA has been clarified to indicate that Administrative Roads use applies to permitted users and right-of-way holders where BLM has approved the use conditions in advance. It cannot be denied that livestock grazing permittees are probably the largest group of permitted users but this group of users, as well as BLM, has a large inventory of rangeland improvements that require periodic inspection and maintenance.

Decision

After carefully considering the analysis of EA ID-130-2006-1927, and considering input from the public, local County government, State agencies, the Shoshone Paiute Tribes, and my staff, my decision is to implement a modified version of the pre-decisional EA's Alternative 3 (now listed as Alternative 2, Proposed Action). The modifications to the Proposed Action are as follows:

1. The Proposed Action has been modified from the Draft EA to create a route network consisting of 55 miles of motorized routes and 75 miles of non-motorized routes. The Draft EA had proposed 80 miles of motorized routes and 56 miles of non-motorized routes.
2. I have added adaptive management provisions in the EA that clarify procedures that would allow for closure of routes, opening of new routes, or changes in management of routes as new information is received, and would consider adding the routes in question, providing they meet the standards as outlined in Appendix 5 of the Final Plan.
3. I have amended the Final EA/Decision to allow both hikers and bikers to use portions of the Caldwell and Beck Ditches.
4. The Monitoring section of the Final Plan has been modified to refer other, ongoing monitoring efforts that would be integrated into the management of Wilson Creek Subregion.
5. The Proposed Action has been modified to eliminate the proposed new staging area. The existing staging area will be maintained and upgraded to the same level as originally proposed for the new staging area.

Rationale and Authority

Implementing the Proposed Action effectively addresses the Purpose and Need as identified in the EA:

The Proposed Action implements the intent of the 1999 Owyhee Resource Management Plan and Record of Decision that directs the agency to:

Limit Off-highway vehicle use on the Owyhee Front Special Recreation Management Area (SRMA).

Provide for high quality recreation opportunities and experiences in the Owyhee Front at developed and undeveloped recreation sites by maintaining existing amenities and by providing new recreation sites for the public's enjoyment.

Develop two equestrian trailheads within the Owyhee Front SRMA providing that they don't adversely affect wild horse herd management areas.

Establish a mountain bike program throughout the Owyhee Field Office that utilizes existing dirt roads and trails.

Manage for recreational opportunities and experiences within wild horse herd management areas through coordination with affected parties and route designation, while protecting wild and free-roaming horses and their habitat.

Adoption of the Proposed Action would:

- Reduce current and future impacts of recreational use on soils, vegetation, sensitive species, wild horses and ranching values.
- Confine most recreational use to designated trails in environmentally sustainable locations.
- Provide a 28,000 acre area of the 260,000 acre Owyhee Front Special Recreation Management Area (SRMA) that emphasizes non-motorized recreational opportunities.
- Provide a motorized transportation system that meets the needs of local communities that depend on and regularly use public lands.

Authority

The Decision is in conformance with the current Owyhee Resource Management Plan (1999). (see above)

The Decision is also in compliance with Appendix C of BLM's H-1601-1, *Land Use Planning Handbook*, which advises, "Comprehensive travel management planning should address all resource user aspects (such as recreational, traditional, casual, agricultural, commercial, and educational) and accompanying modes and conditions of travel on public lands, not just motorized or off-highway vehicle activities." The handbook further advises that. "...for areas classified as limited, consider a full range of possibilities, including travel that will be limited to types of modes of travel, such as foot, equestrian, bicycle, motorized, etc.; limited to time or season of use; limited to certain types of vehicles (OHVs, motorcycles, all-terrain vehicles, high clearance, etc.) The handbook also requires that BLM, "...establish a process to identify specific areas, roads and/or trails that will be available for public use, and specify limitations places on use. Travel Management Plans are to include:

- A map of routes for all travel modes
- Criteria to select or reject specific roads and trails in the final management network
- Guidelines for managing, monitoring, and maintaining the system.

The Decision is in compliance with Executive Order 11644 that directs federal agencies to, "establish policies and procedures that will ensure the use of off-road vehicles on public lands will be controlled and directed to protect the resources of those lands, to promote the safety of all

users of those lands, and to minimize the conflict among various users of those lands”, ...and to “ensure the compatibility of such uses with existing conditions in populated areas, taking in to account noise and other factors.”

The Decision is in compliance with Executive Order 11989 (1977) which directs federal land managers to immediately close areas or trails to off-road vehicles whenever the land manager determines that, “the use of the off-road vehicle will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitats or cultural or historic resources of particular areas or trails until such adverse effects have been eliminated and that measures have been implemented to prevent further recurrence.”

How to Appeal this Decision

The decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. Public notification of this decision will be considered to have occurred on *(Include date that Decision was signed)*. Within 30 days of this decision, a notice of appeal must be filed in the office of the authorized officer at Bureau of Land Management, Boise District Office, 3948 Development Ave., Boise ID 83705. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the authorized officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant’s success on the merits,
- (3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the authorized officer.

A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, not later than 15 days after filing the document with the authorized officer and/or IBLA.

Sincerely,

David Wolf
Owyhee Field Office Manager (Acting)